

UNITED STATES DISTRICT COURT
FOR THE
SOUTHERN DISTRICT OF ILLINOIS

FILED

DEC 08 2014

CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF ILLINOIS
EAST ST. LOUIS OFFICE

Plaintiff(s)
KEVIN PHELPS
VS.

Case Number: 14-891-JPG

Defendant(s)
C/O Phillips, et al.

MOTION FOR PRELIMINARY INJUNCTION &
TEMPORARY RESTRAINING ORDER

Please see attach Papers!

I Kevin Phelps, am the plaintiff in this motion for a, Preliminary Injunction & Temporary Restraining Order. My Constitutional Rights are continue to be Violated, by I.D.O.C. & Lawrence C.C., Violating my 14 Amendment; Procedural due process rights regarding Punishment, 8 Amendment; Cruel and Unusual Punishment, dileberate indifference, Failure To Protect, Failure to Classify inmates and Separate the particularly violent or vulnerable, & Violation of THE AMERICANS WITH Disabilities ACT, by housing NONE ADA inmates in A A.D.A cell For ADA inmates puts my life & safety in danger, plus the ADA cell is For one ADA inmate.

I am a ADA inmate confined to a wheelchair, I was assaulted by a none ADA inmate that was placed in a ADA cell with me, on 7-6-13, I am still being put in danger, by the I.D.O.C., & Lawrence C.C., by still placing none ADA inmates in ADA cells with paraplegia; where I have no way of defending myself from another assault. I have had none ADA inmates that they place

IN a ADA cell with me, threat me with dumping me out of my wheelchair, beating me up, & they be taking things from me, because I can't help myself, I spoke with c/o's and they never do anything, but put another NONE ADA inmate in the ADA Cell with me, continue to put my life & safety in jeopardy, The ADA cell is only for one ADA inmate. I even wrote to the Warden, I also wrote to inmates issues for the I.D.O.C., and was told by them to request to be placed into protective custody, I also spoke with Internal Affairs officers, and social workers, and I wrote grievances about being placed into protective custody, and was told that there is NO protective custody here, the Warden also told me that he is not sending me to protective custody cause it's too much paper work to do, which have me living in constant fear. I have again been assaulted and sexual abused, by orange crush (Tactical Team) I filed a grievance about it, the counselor told me to write a

2nd grievance about the issue, because the first grievance got too much information in it, and that it would maybe come up missing, so I filed a 2nd grievance with ~~lots~~ less details, I have been harassed by the c/o's and the warden here. I ask the court to issue a TRO & INJUNCTIONS for, TO only have me in a ADA cell with another ADA inmate, TO have me placed into protective custody for my safety, TO have the c/o's & warden, stop harassing me, or to be transfer to a facility that house ADA inmates with ADA inmates, & TO be free of retaliation from this facility.

STATE OF ILLINOIS

COUNTY OF Lawrence

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) SS
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AFFIDAVIT

I, Kevin Phelps being first duly sworn upon my oath depose and state that the following matters are both true and correct made upon personal knowledge and belief, and if called as a witness, I am competent to testify thereto: Subject: Sexual Abuse & Assault.
Summary Of Incident: I am disable and confine to a wheel chair, I am a member of, American with Disability Act(ADA). I would be very thankful if your office will report this incident to PREA OFFICIALS, Prison Rape Elimination Act (PREA). ON 7-7-14, at approximately 11:00 AM, at Lawrence Correctional Center, I.D.C. tactical team, in cell House Two(a) C-wing, Strip Searched me in a demeaning manner, which was very sexual humiliating, the officers was making sexual indignat comments. The c/o that was Strip Searching me said "Since you can't stand up, you got to get in your bed and roll over so I can check your ass hole to make sure you ain't hiding anything up there since you can't stand and cough". I got in the bed, then the c/o put his finger in me, I then said this ain't right, the c/o then stated "you probably can't feel it anyway", the other c/o started laughing, I ask to speak with a L.T. or Nurse, the c/o told me to shut the fuck up and get back in your wheel chair, I ask again to see a L.T. or nurse, the c/o then told the other c/o "take him in the shower and beat his ass", the one c/o only hit me two times in the side with the stick and handcuffed my hands behind my back and told me to be quite and keep your head down or I will come back and beat your ass, for reasons unknown to me, I followed all the officers orders, at no time did I refuse. Again like above, I was physically assaulted and sexually assaulted by tactical team officers, The officers made numerous threats, The officers had no regards for my disability, many of the officers threats had a

Affidavit (continued) Page 2 of 2

Racial over tone. I do not know who the officers are, because they came from all over the state and they had no name tags nor badges on. I did recognize Warden Moore, he was present. Warden Moore, never stop what was going on. I am asking for an investigation into this matter and to be compensated. Thank you very much for your help and understanding, in this cruel and unusually punishment, which violate my united States Constitution.

Signed:

Kevin Phelps
AFFILIANT

SUBSCRIBED AND SWORN TO BEFORE

ME THIS 19th DAY OF August, 2014
Notary : Cathy J Gray



ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE

R2 C 22

Date: <u>7-17-14</u>	Offender: <u>Kevin Phelps</u> <small>(Please Print)</small>	ID#: <u>K78191</u>
Present Facility: <u>Lawrence C.C.</u>		Facility where grievance issue occurred: <u>Lawrence C.C.</u>
NATURE OF GRIEVANCE:		
<input type="checkbox"/> Personal Property <input type="checkbox"/> Mail Handling <input type="checkbox"/> Restoration of Good Time <input checked="" type="checkbox"/> Disability <u>A.D.A. inmate</u> <input checked="" type="checkbox"/> Staff Conduct <input type="checkbox"/> Dietary <input type="checkbox"/> Medical Treatment <input type="checkbox"/> HIPAA <input type="checkbox"/> Transfer Denial by Facility <input type="checkbox"/> Transfer Denial by Transfer Coordinator <input checked="" type="checkbox"/> Other (specify): <u>Sexual Abuse</u> <input type="checkbox"/> Disciplinary Report: _____ <u>and Assault</u>		
<small>Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.</small> Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to: Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board. Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor. Chief Administrative Officer, only if EMERGENCY grievance. Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.		
Brief Summary of Grievance: <u>Subject: Sexual Abuse & Assault. Summary of incident: I am disable and confine to a wheelchair, I am a member of THE AMERICAN WITH DISABILITY ACT (ADA). I would be very thankful if your office will report this incident to PREA officials, Prison Rape Elimination Act (PREA) on 7-7-14, at Lawrence Correctional Center at approximately 11:00 A.M. I.D.O.C. tactical team, in cell house Two, wing C, strip searched me in a demeaning manner, which was very Sexual humiliating, the officers was making sexual indignant comments. The c/p that was</u>		
Relief Requested: <u>Report this incident to PREA officials & an investigation into this matter, I would like to be compensated for the cruel & unusual punishment that I experienced & to be transfer for my safety & health.</u>		
<input checked="" type="checkbox"/> Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.		
<u>Kevin Phelps</u> Offender's Signature		<u>K78191</u> ID# <u>7, 17, 14</u> Date

(Continue on reverse side if necessary)

Counselor's Response (If applicable)	
Date Received: <u>7.24.14</u>	<input type="checkbox"/> Send directly to Grievance Officer <input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277
Response: <u>The Tactical Team shakedown procedure was facilitated per policy and administrative direction.</u>	
<u>[Signature]</u> Print Counselor's Name	<u>[Signature]</u> Counselor's Signature
<u>7.13.14</u> Date of Response	

EMERGENCY REVIEW	
Date Received: <u>1 / 1</u>	Is this determined to be of an emergency nature? <input type="checkbox"/> Yes; expedite emergency grievance <input type="checkbox"/> No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.
_____ Chief Administrative Officer's Signature	_____ Date

Strip searching me said, "Since you can't stand up, you got to get in your bed and roll over so I can check your ass hole, to make sure you ain't hidding anything up there since you can't stand and cough," I got in the bed then the c/o put his finger in me, I then said this ain't right, the c/o then stated, "you probably can't feel it anyway," the other c/o started laughing, I ask to speak with a L.T., or nurse, the c/o told me to shut the fuck up and get back in your wheelchair, I ask again to see a L.T., or nurse, the c/o then told the other c/o "take him in the shower and beat his ass" the one c/o only hit me two times in the side with the stick and handcuffed my hands behinds my back and told me "to be quite and keep your head down or I will come back and beat your ass" For reasons unknown to me, I followed all the officers orders at no time did I refuse. Again like above, I was physically assaulted and sexually assaulted by tactical team officers, the officers made numerous threats, the officers had no regards for my disability, many of the officers threats had a racial over tone, I do not know who the officers are, because they came from all over the State and they had no name tags nor badges on, I did recognize Warden Moore, he was present, Warden Moore, never stop what was going on. I am asking for an investigation into this matter and to be compensated. Thank you very much for your help and understanding in this cruel and unusually punishment, which violate my UNITED STATES CONSTITUTION.

Date: 7-30-14	Offender: (Please Print) Kevin Phelps	ID#: K78191
Present Facility: Lawrence C.C.	Facility where grievance issue occurred: Lawrence Correctional Center	
NATURE OF GRIEVANCE: 8-14-126 E748 Cruel & Unusual Punishment		
<input type="checkbox"/> Personal Property <input checked="" type="checkbox"/> Staff Conduct <input type="checkbox"/> Transfer Denial by Facility <input type="checkbox"/> Disciplinary Report:	<input type="checkbox"/> Mail Handling <input type="checkbox"/> Dietary <input type="checkbox"/> Transfer Denial by Transfer Coordinator Date of Report:	<input type="checkbox"/> Restoration of Good Time <input type="checkbox"/> Medical Treatment <input type="checkbox"/> Disability ADA inmate <input type="checkbox"/> HIPAA <input checked="" type="checkbox"/> Other (specify): Sexual Abuse and Assault on an A.D.A. inmate Facility where issued:
Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.		
Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to: LAWRENCE CC Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board. Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor. Chief Administrative Officer, only if EMERGENCY grievance. Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.		
Brief Summary of Grievance: I am disable and confine to a wheel-chair. I am a member of American with disability Act (ADA). I would be very thankful if your office will report this incident to PREA officials, (Prison Rape Elimination Act) PREA. On July 7, 2014, at about 11:00 AM Orange Crush Strip searched me in a demeaning manner which was very sexual humiliating. The officers was making sexual indignant comments. The officer said, "for the other officers to take me into the handicap shower and beat my ass" for reasons unknown to me, I followed all		
Relief Requested: Report this incident to PREA officials and an investigation into this matter. I would like to be compensated for this matter & the cruel & unusual punishment that I experienced. (cont. back)		
<input checked="" type="checkbox"/> Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.		
Kevin Phelps	K78191	7/30/14
Offender's Signature	ID#	Date
(Continue on reverse side if necessary)		

Counselor's Response (if applicable)		
Date Received: 8/11/14	<input type="checkbox"/> Send directly to Grievance Officer	<input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277
Response: All shape drawers are audited per MD & IT's policy & administrative directive.		
		8/11/14
Print Counselor's Name	Counselor's Signature	Date of Response

EMERGENCY REVIEW		
Date Received: 8/4/14	Is this determined to be of an emergency nature?	
<input type="checkbox"/> Yes; expedite emergency grievance <input checked="" type="checkbox"/> No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.		8/4/14
		Date
Chief Administrative Officer's Signature		Date

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE (Continued)

the officers orders, at no time did I refuse in the handi-
cap shower I was physically assaulted by orange crush
officers. The officer made numerous threats, I then ask
for a nurse and Supervisor to no avail. The officer
had no regard for my disability, many of the officers
threats had a racial over tone. I do not know who the
officers are because they had no name tags or badges
on. I did recognize Warden Moore, he was present, Warden
moore, Never stop what was going on. ~~Quarantined~~

ADDITIONAL Relief: To be free of retaliation from the
officers in the Southern District of ILLINOIS
Department Of Correctional (Orange Crush) To BE
Transferred, To have this grievance heard at the highest
level, because I fear for my safety, life, & health, here, I also
will like to speak to I.A., To make a Police Report against
the orange crush.

ILLINOIS DEPARTMENT OF CORRECTIONS
Administrative Review Board
Return of Grievance or Correspondence

25-CL-1

Offender: Phelps Benen K78191
Last Name First Name MI ID#

Facility: Lawrence CC

☒ Grievance: Facility Grievance # (if applicable) _____ Dated: 10/20-13 or ☐ Correspondence: Dated: _____

Received: 11/19-13 Regarding: PC
Date

The attached grievance or correspondence is being returned for the following reasons:

Additional information required:

- ☐ Provide a copy of your written Offender's Grievance, DOC 0046, including the counselor's response, if applicable.
- ☐ Provide a copy of the Response to Offender's Grievance, DOC 0047, including the Grievance Officer's and Chief Administrative Officer's response, to appeal.
- ☐ Provide dates of disciplinary reports and facility where incidents occurred.
- ☐ Unable to determine nature of grievance or correspondence; submit additional specific information. Please return the attached grievance or correspondence with the additional information requested to: Administrative Review Board
Office of Inmate Issues
1301 Concordia Court
Springfield, IL 62794-9277

Misdirected:

- ☒ Contact your correctional counselor regarding this issue.
- ☐ Request restoration of Statutory Sentence Credits to Adjustment Committee. If the request is denied by the facility, utilize the offender grievance process outlined in Department Rule 504 for further consideration.
- ☐ Contact the Record Office with your request or to provide additional information.
- ☐ Personal property issues are to be reviewed at your current facility prior to review by the Administrative Review Board.
- ☐ Address concerns to: Illinois Prisoner Review Board
319 E. Madison St., Suite A
Springfield, IL 62706

No further redress:

- ☐ Award of Supplemental Sentence Credits are discretionary administrative decisions; therefore, this issue will not be addressed further.
- ☐ Not submitted in the timeframe outlined in Department Rule 504; therefore, this issue will not be addressed further.
- ☐ This office previously addressed this issue on _____
Date
- ☐ No justification provided for additional consideration.

Other (specify): PC is not available at your facility level
Contact your counselor or internal affairs

Completed by: Billie W. Greer Billie W. Greer 12.9.13
Print Name Signature Date

Distribution: Offender
Inmate Issues

Printed on Recycled Paper

DOC 0070 (Rev. 4/2013)

ILLINOIS DEPARTMENT OF CORRECTIONS
OFFENDER'S GRIEVANCE

R2-27

Date: <u>12/08/14</u>	Offender: <u>Kenneth [unclear]</u> (Please Print)	ID#: <u>127191</u>
Present Facility: <u>Lawrence</u>		Facility where grievance issue occurred: <u>Lawrence</u>

NATURE OF GRIEVANCE:

<input type="checkbox"/> Personal Property	<input type="checkbox"/> Mail Handling	<input type="checkbox"/> Restoration of Good Time	<input type="checkbox"/> ADA Disability Accommodation
<input checked="" type="checkbox"/> Staff Conduct	<input type="checkbox"/> Dietary	<input type="checkbox"/> Medical Treatment	<input type="checkbox"/> HIPAA
<input type="checkbox"/> Transfer Denial by Facility	<input type="checkbox"/> Transfer Denial by Transfer Coordinator	<input type="checkbox"/> Other (specify): <u>custody</u>	

☐ Disciplinary Report: _____
Date of Report: _____ Facility where issued: _____

Note: Protective Custody Denials may be grieved immediately via the local administration on the protective custody status notification.

Complete: Attach a copy of any pertinent document (such as a Disciplinary Report, Shakedown Record, etc.) and send to:
 Counselor, unless the issue involves discipline, is deemed an emergency, or is subject to direct review by the Administrative Review Board.
 Grievance Officer, only if the issue involves discipline at the present facility or issue not resolved by Counselor.
 Chief Administrative Officer, only if EMERGENCY grievance.
 Administrative Review Board, only if the issue involves transfer denial by the Transfer Coordinator, protective custody, involuntary administration of psychotropic drugs, issues from another facility except personal property issues, or issues not resolved by the Chief Administrative Officer.

Summary of Grievance (Provide information including a description of what happened, when and where it happened, and the name or identifying information for each person involved):
I am coming here as the opportunity to be placed into protective custody. I have put a several demand to be placed into protective custody. I was verbally assaulted by a inmate who was the cell adjacent to me. I am not trying to be assaulted or harassed by any one. I am a paraplegic that is confined to a wheel chair. I feel the risk that I have several enemies here one of the persons who was with the guys who shot me and put me in a wheel chair is also down here now. Some one is also trying to bully me. I wonder if I am in fear of my life when I spoke to the cops about these issues they said "it ain't nothing they'll do about it, to file a grievance."

Relief Requested: To be placed into protective custody, to speak with someone from the Counselor's office and to be compensated if I am attacked or assaulted by anyone because of being placed into protective custody by Lawrence.

☒ Check only if this is an EMERGENCY grievance due to a substantial risk of imminent personal injury or other serious or irreparable harm to self.

Offender's Signature: Kenneth [unclear] ID#: 127191 Date: 12/08/14

(Continue on reverse side if necessary)

Counselor's Response (if applicable)	
Date Received: <u>6/10/14</u>	<input type="checkbox"/> Send directly to Grievance Officer <input type="checkbox"/> Outside jurisdiction of this facility. Send to Administrative Review Board, P.O. Box 19277, Springfield, IL 62794-9277
Response: <u>Protective custody is not available at LCC. PC is an Administrative decision, [unclear]</u>	
<u>[Signature]</u> Print Counselor's Name	<u>[Signature]</u> Counselor's Signature
	Date of Response: <u>6/30/14</u>

EMERGENCY REVIEW	
Date Received: _____	Is this determined to be of an emergency nature? <input type="checkbox"/> Yes; expedite emergency grievance
	<input type="checkbox"/> No; an emergency is not substantiated. Offender should submit this grievance in the normal manner.
_____ Chief Administrative Officer's Signature	_____ Date

Dear My Friend, I have wrote several e-mails to the manager for the company told her I can't have time to come and not having a passport. I will be writing it to to protect myself but it is dangerous to have more things and more money. I am all right in the hospital for now. I am not by the way in fear of my life here. I am forced to stay in front of the chain ball (the thing) I am using now. It is not the so dangerous one, because it can be used for here. Can you please write me or my family back telling me how you got this Grievance. I thank you very much for your love. With
Very Sincerely at hand, I look forward to hearing from you soon.
Love my family

Attorney: James Harrison